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State of South Carolina

State Ethics Commission

(803) 734-1227

1122 Lady Street, Ste. 930
Columbia, S.C. 29201

NEWSLETTER

June 1986

No. 86-003

CAMPAIGN DISCLOSURE DEADLINE FOR PRIMARY - JULY 10

Candidates and committees involved in the June 10 primary have until July 10 to file their Campaign Disclosure Forms. Any candidate or committee involved in supporting a candidate in the June 10 primary is required to file the form if any funds were expended or received. The payment of a filing fee is an expenditure, even if paid from personal funds, and should be reported on the Campaign Disclosure Form if it has not been previously reported. A candidate is considered to be involved if his or her name appeared on the primary election ballot. A committee is involved if it provided contributions to or otherwise supported a candidate whose name appeared on the June 10 primary ballot.

Candidates involved in the June 24 runoff election must file their campaign finance information for the election prior to July 24. Candidates involved in the runoff may elect to file one report covering both elections if the report is filed prior to July 10.

Candidates who continue to pay election campaign expenses or receive funds after the filing of the Campaign Disclosure Form must file an update within ten days after the end of the calendar quarter. The update report must be filed prior to October 10 as a followup to the July 10 report.

Campaign Disclosure Forms are available from party officials, the County Clerks of Court, and the State Ethics Commission.

THE STATE ETHICS ACT AND REGULATORY AGENCY OFFICEHOLDERS

The State Ethics Act prohibits employees of regulatory agencies from accepting certain gifts from businesses or individuals regulated by their agencies. Such employees may also be required to file a Statement of Economic

Interests if they or a member of their household are associated with a regulated business. Members of regulatory agencies, boards, or commissions may not regulate themselves or their businesses, or any business with which a member of their household is associated unless specifically provided in authorizing statutes.

Gifts exceeding ten dollars in value are strictly prohibited from any person or business which is regulated by the employee's agency. An exception is that such employees may accept food and beverage consumed at the time of the presentation and in the presence of the donor. This provision removes the temptation to accept gifts from persons about whom they may in the future be required to take action or make decisions.

Any employee of a regulatory agency which regulates a business that he or a member of his household is associated with is required to file an annual Statement of Economic Interests. This filing requirement exists whether the officeholder is otherwise required to file or not. If the employee's position with the regulatory agency creates a frequent or continuing conflict or impedes the performance of his position responsibilities, then the employment or business relationship cannot continue.

The Act also prohibits a person from serving on a regulatory agency or commission which regulates a business with which he is associated, unless specifically provided for by relevant statutes. A person is associated with a business if he or a member of his household is an officer, owner, director, employee, or is a stockholder of more than \$10,000 at fair market value. A member of the household is the person, his or her spouse, and any children occupying the same family residence. Thus, unless the authorizing statute provides for such a person to be associated with the regulated business, he or she may not serve on the board or commission which regulates that business.

Any person questioning the applicability of these provisions to a specific situation may request an opinion by contacting the Commission office.

DIGEST OF ADVISORY OPINIONS

OPINION: 86-032

March 26, 1986

**SUBJECT: REAL ESTATE COMMISSIONER
CONDUCTING REAL ESTATE SEMINAR**

A Real Estate Commissioner may offer a pre-exam seminar, however, he is advised against utilizing confidential information, against utilizing his position to obtain favorable treatment for seminar participants, and against taking action regarding test scores, appeals, or licensing of seminar participants.

Requestor: Roy Peavey, Member

Entity: Real Estate Commission

OPINION: 86-033

March 26, 1986

**SUBJECT: WILDLIFE EMPLOYEE AS
CONSULTANT**

A Wildlife Department employee may provide consulting services to a scientific consulting firm, however, he is advised of the disclosure and disqualification procedures of Section 8-13-460 regarding actions which may affect the private consulting firm. He is also advised that while this consulting work may be allowed, he should weigh the consequences of the appearance of impropriety.

Requestor: Dr. Paul A. Sandifer, Division Director

Entity: Wildlife Department

OPINION: 86-034

March 15, 1986

**SUBJECT: DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL EMPLOYEE
ASSOCIATED WITH A NON-PROFIT
ORGANIZATION**

The Chief of the Bureau of Air Quality Control at the Department of Health and Environmental Control may serve on the Board of Directors of the South Carolina Railroad Museum, Inc., without violating provisions of the State Ethics Act. He is reminded of the provisions of Section 8-13-460, which requires disclosure and disqualification from official actions which may affect the financial interests of the organization.

Requestor: Otto E. Pearson, P.E.

Entity: Department of Health & Environmental Control

OPINION: 86-035

March 26, 1986

**SUBJECT: HEALTH AND HUMAN SERVICES
EMPLOYEE ACCEPTING HUNTING PRIVI-
LEGES FROM NURSING HOME OPERATOR**

An Audit Supervisor with Health and Human Services Finance Commission may accept the offer of hunting privileges on property owned by a nursing home operator, if he has no discretion concerning reimbursement rates or allowable costs.

Requestor: Jeff Saxon, Audit Supervisor

Entity: Health & Human Service Finance Commission

OPINION: 86-036

March 26, 1986

**SUBJECT: PART-TIME EMPLOYEE CHAIR-
ING CAMPAIGN COMMITTEE**

A part-time employee may chair an election campaign committee provided the campaigning is conducted on the employee's own time and does not utilize public materials and equipment. The employee is advised that the Hatch Act may apply to this situation.

Requestor: Gordan B. Stine, D.D.S.

Entity: Medical University of South Carolina

OPINION: 86-037

March 26, 1986

**SUBJECT: CITY COUNCILMEMBERS
VOTING ON BUSINESS LICENSE ORDINANCE**

Two city councilmembers may participate in deliberations and votes concerning a business license ordinance which will not affect their businesses to any greater degree than other businesses affected by the ordinance. The mere fact that these councilmembers are associated with businesses which may be affected by the ordinance is not sufficient criteria to require disqualification.

Requestor: Ali Bring

Entity: Town of Jackson

OPINION: 86-037

(Clarification)

May 21, 1986

**SUBJECT: CITY COUNCILMEMBERS
VOTING ON BUSINESS LICENSE ORDINANCE**

Councilmembers having to take action or make decisions on matters in which their interests are different from those of the general public or a significant segment of the general public should seek guidance from prior-issued advisory opinions or seek an opinion from the State Ethics Commission regarding a specific situation.

Requestor: Ali Bring, Administrator

Entity: Town of Jackson

OPINION: 86-038

March 26, 1986

**SUBJECT: PUBLIC EMPLOYEE PROVIDING
CONSULTATION SERVICES**

A public employee may provide consulting services outside the state consistent with off-duty employment guidelines.

Requestor: Teri H. Salane

Entity: State Board of Nursing

OPINION: 86-039

March 26, 1986

**SUBJECT: PUBLIC EMPLOYEE PROVIDING
CONSULTATION SERVICES**

A public employee may provide consulting services outside the state consistent with off-duty employment guidelines.

Requestor: James E. Stroman

Entity: Department of Health & Environmental Control

OPINION: 86-040

March 26, 1986

**SUBJECT: ABC COMMISSION EMPLOYEES
AS GUEST OF TRADE ASSOCIATIONS**

ABC Commission employees may attend a banquet sponsored by several trade associations not regulated by the Commission, at which the Commission will recognize the Agent of the Year and Employee of the Year.

Requestor: Nicholas P. Sipe, Executive Director

Entity: Alcoholic Beverage Control Commission

OPINION: 86-041

March 26, 1986

**SUBJECT: RECREATION COMMISSION
EMPLOYEE RUNNING FOR POLITICAL
OFFICE**

The State Ethics Act does not prohibit a public employee from running for or holding any public elective position. The public employee, if elected, would be required to follow the procedures of Section 8-13-460 on matters affecting his employment position. The employee is advised to contact the Federal Office of Personnel Management concerning the applicability of the Hatch Act.

Requestor: Buster Smith

Entity: Fairfield County Recreation Commission

OPINION: 86-042

March 26, 1986

**SUBJECT: COUNTY CLERK RUNNING FOR
POLITICAL OFFICE**

The State Ethics Act does not prohibit a public employee from running for or holding any public elective position. The public employee, if elected, would be required to follow the procedures of Section 8-13-460 on matters affecting his employment position. The employee is advised to contact the Federal Office of Personnel Management concerning the applicability of the Hatch Act.

Requestor: Angie Pinckney

Entity: Dorchester County

OPINION: 86-043

March 26, 1986

**SUBJECT: COMMISSION ON HIGHER
EDUCATION EMPLOYEE SERVING ON
COLLEGE BOARD OF TRUSTEES**

The State Ethics Act would not prohibit the employee of the Commission on Higher Education from offering for and serving as a member of the Board of Trustees of South Carolina State College.

Requestor: James A. Paschal

Entity: Commission on Higher Education

OPINION: 86-044

May 21, 1986

**SUBJECT: DISPOSITION OF SURPLUS
CAMPAIGN FUNDS**

Surplus election campaign funds may be retained for a future election, refunded to contributors on a pro-rata basis, contributed to a bona fide charitable organization, or contributed to another political candidate or committee.

Requestor: Charles C. Wannamaker, Member

Entity: Charleston County Council

OPINION: 86-045

May 21, 1986

**SUBJECT: CITY ADMINISTRATIVE SER-
VICES DIRECTOR SERVING ON BANK BOARD**

A city Director of Administrative Services may serve on the advisory board of a bank. He would be required to follow the procedures of Section 8-13-460 on matters affecting the bank if he has a financial interest in the bank. The Director was also advised to weigh the effects of the appearance of impropriety.

Requestor: Joseph P. Riley, Mayor

Entity: City of Charleston

OPINION: 86-046

May 21, 1986

SUBJECT: COUNCILMEMBERS PARTICIPATION IN MATTERS INVOLVING LAWSUIT

The State Ethics Commission would advise city councilmen who contributed to a legal fund to file a lawsuit against the city from taking official action involving the lawsuit or the subject of the lawsuit. Persons who have contributed to the legal fund may be considered for positions on city boards and commissions, but, once appointed, shall not participate in official actions regarding the lawsuit or the subject of the lawsuit.

Requestor: Henry C. Hester, Mayor

Entity: City of N. Myrtle Beach

OPINION: 86-047

May 21, 1986

SUBJECT: COUNTY COUNCILMAN VOTING ON SCHOOL DISTRICT BUDGET

A county councilman who is employed by a school district in the county and whose spouse is employed in another school district in the county is advised to follow the disclosure and disqualification procedures of Section 8-13-460 regarding setting the millage on the school district budget.

Requestor: W.R. Rogers, Member

Entity: Richland County Council

OPINION: 86-048

May 21, 1986

SUBJECT: COUNTY COUNCILMAN'S ADVISORY COMMITTEE

A County Councilman would not be prohibited from utilizing public employees to prepare and mail meeting notices of an advisory committee composed of his constituents.

Requestor: Walter H. Parham, Attorney

Entity: Greenville County

STATUTE PROHIBITING SCHOOL TRUSTEE BUSINESS CHANGED

On April 29, Governor Riley signed into law, H3363 which deleted a prohibition against school district trustees being involved in business transactions with the school district they serve.

Section 59-69-260 of the 1976 Code of Laws prohibited school trustees from contracting with or being pecuniarily interested in any contract with the school districts of which they are trustees.

The amendment was introduced by speaker Pro Tempore Sterling Anderson, and Reps. G.R. Davenport, F.L. Day, F.E. McBride, S.V. Shelton, J.J. Snow, and D. Williams. The sponsors introduced the bill in response to newspaper articles detailing the business activities of 14 school trustees with their school districts in 1984. The school trustees had disclosed business transactions with their school districts on their Statement of Economic Interests filed during 1985. While their business activities did not appear to violate the State Ethics Act, the State Ethics Commission referred the forms to the Attorney General's Office and local Solicitors for appropriate action.

As a result of the publicity, the sponsors inaugurated the bill which received quick support and passage in both houses.

The passage of H3363 means that school trustees may now conduct business with public agencies, including their own school districts, provided they take no official action regarding the contracts. This provision now places these trustees on the same footing as all other public officials and employees in terms of conducting business with their agencies.

State Ethics Commission

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